

FILED

NOVEMBER 8, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

07 C 6356

JUDGE CASTILLO
MAGISTRATE JUDGE BROWN

EXHIBIT 2

**ASSIGNMENT OF LEASE AND ASSUMPTION AGREEMENT
AND CONSENT OF LANDLORD**

STATE OF ILLINOIS §
 § KNOW ALL MEN BY THESE PRESENTS THAT:
COUNTY OF DeKalb §

This Assignment of Lease and Assumption Agreement (the "Agreement") is entered into by and between **MATTRESS GIANT CORPORATION**, a Texas corporation ("Assignor"), and **BACK TO BED, INC.**, an Illinois corporation ("Assignee"), effective as of December 22, 2005 (the "Effective Date").

RECITALS:

1. Contemporaneously herewith, Assignor is selling certain assets described in a certain written Asset Purchase Agreement dated the 15th day of December, 2005, by and between Assignor, Assignee, which includes the assignment of that certain lease by and between Assignor, as tenant, and Sycamore Center DeKalb, LLC as landlord (the "Landlord"), for the premises known as 2395 Sycamore Road, DeKalb Illinois (the "Assigned Lease").

2. Assignor desires to transfer and assign to Assignee all of Assignor's interest, rights and estate as tenant under the Assigned Lease as of the Effective Date.

3. Assignee desires to assume all obligations of the tenant under the Assigned Lease as of the Effective Date.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants hereinafter set forth, together with the sum of Ten and no/100 (\$10.00) Dollars cash in hand paid to Assignor by Assignee, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Assignor, the Assignor does hereby ASSIGN, TRANSFER, SET-OVER, and DELIVER unto Assignee all of Assignor's interest, rights, and estate as tenant under the Assigned Lease and all of the rights, benefits, and privileges of the tenant thereunder.

TO HAVE AND TO HOLD, all and singular, the Assigned Lease unto Assignee, its successors, and assigns forever.

Assignee hereby assumes and agrees to perform all of the terms, covenants, and conditions required to be performed on the part of the Tenant under the Assigned Lease from and after the Effective Date, but not prior thereto.

Assignee covenants and agrees to indemnify, save, and hold harmless Assignor from and against any and all losses, liabilities, claims, or causes of action arising out of or related to Assignee's failure to perform any of the obligations of the tenant under the Assigned Lease subsequent to the Effective Date.

Assignor covenants and agrees to indemnify, save, and hold harmless Assignee from and against any and all losses, liabilities, claims, or causes of action arising out of or related to

Assignor's failure to perform any of the obligations of the tenant under the Assigned Lease prior to the Effective Date.

The effectiveness of this Agreement is expressly conditioned upon the execution and delivery of the Consent of the Landlord attached hereto (the "Consent"). If the Consent has not been executed and delivered on or before the Effective Date, then this Agreement shall be deemed null and void and of no further force and effect.

All terms and conditions of the Consent are hereby incorporated into this Agreement in full, and the obligations of the parties set forth therein are hereby incorporated herein by reference.

All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

EXECUTED as of this the 22 day of December, 2005, but effective as of the Effective Date.

ASSIGNOR:

MATTRESS GIANT CORPORATION,
a Texas corporation

By: 

Its: Stephen L. List, Vice President/Secretary

ASSIGNEE:

BACK TO BED, INC.,
an Illinois corporation

By: 

Its: President

CONSENT OF LANDLORD TO ASSIGNMENT OF LEASE

The undersigned, being the landlord under the Assigned Lease ("Landlord"), pursuant to Section ____ of the Assigned Lease, does hereby consent and agree to the assignment of the Assigned Lease from Assignor to Assignee, subject to the terms, conditions and provisions contained herein, as follows:

- a. *Consent and Assignee Acknowledgment.* As of the Effective Date, Landlord consents to the assignment of the Assigned Lease from Assignor to Assignee pursuant to the Agreement set forth above. Assignee acknowledges that it has examined and is familiar with all of the terms and provisions of the Assigned Lease.
- b. *Assignee Agreements.* As of the Effective Date, Assignee agrees to be bound by, and to assume the obligations under, the Assigned Lease, to perform each and every obligation of tenant described in the Assigned Lease, and to use the premises described in the Assigned Lease in a manner which will not cause default under the terms of the Assigned Lease. Prior to Assignee taking occupancy of the premises described in the Assigned Lease, Assignee shall deliver to Landlord a certificate of insurance or insurance policy with copies of the applicable endorsements, which reflect (i) Landlord being named in the policy or policies as additional insured, and (ii) insurance coverage as required by the Assigned Lease.
- c. *No Release of Assignor.* The parties each acknowledge and agree that this Assignment, and the execution of this Consent by Landlord, does not in any manner release Assignor from its obligations, past, present or future, as tenant under the Assigned Lease, and that both Assignor and Assignee shall be jointly and severally liable for the obligations of the tenant under the Assigned Lease from and after the Effective Date. The parties agree that in the event of a default under the Assigned Lease by Assignee, Landlord shall have the right to seek any remedy or redress granted to Landlord under the Assigned Lease against either Assignor or Assignee, or both, in the sole option and discretion of Landlord.
- d. *Contingent Effectiveness.* The parties acknowledge that the effectiveness of this Consent is expressly contingent upon the execution and delivery of the Agreement between Assignor and Assignee. In the event that Assignee and Assignor fail to execute and deliver the Agreement on or before December 31, 2005, then this Consent shall be deemed null, void, and of no further force or effect.
- e. *Notice.* Landlord agrees that any notice of default, or of any failure of tenant to abide by the terms and provisions of the Assigned Lease, that is sent to Assignee hereunder shall be sent simultaneously to Assignor.

Executed as of 12-16, 2005, but effective as of the Effective Date.

LANDLORD: SYCAMORE CENTER DEKALB, LLC

By: [Signature]

Its: Agent